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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Kouichi Miyamoto

AA-599

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27752

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02/23/2006

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

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Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Request for Continued Examination***

A request for continued examination under 37 CFR 1.114 including the fee set forth in 37 CFR 1.17(e) was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17 (e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 5, 2005 has been entered.

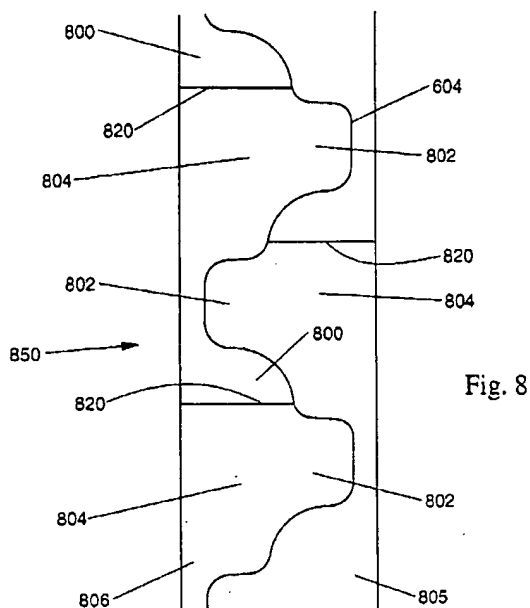
### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Nease et al. (US 5580411).

Nease et al. (figure 8) teaches fastening member structure including a member extending in the longitudinal and lateral direction and further being asymmetric with respect to the lateral centerline and symmetric with respect to the longitudinal centerline. While the particular exact measurements are not clearly shown, it would appear that the key asymmetry and symmetry are suggested by the fastening tab of Nease. Any slight change would appear to be obvious over the teaching of Nease. An Appendix has been included to show the downward translation and the symmetry by showing an annotated figure 8 comparable to applicant's figure 7.



In regard to claim 6, the proximal portion of the shaped tab has a recess. As to claims 7 and 8, all corners of the tab are rounded and since upper and lower are dependent on orientation and the radii of curvature of the corners of the device of Nease et al. are different, the subject matter of these claims is obvious. In regard to claim 9, fastening material is disposed on the tab of Nease et al. As to claim 10, the tabs are stretchable as is common in the art as indicated by Nease et al. in column 5, lines 11-50.

Claims 2-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nease et al. (US 5580411) as applied to claim 1 above, and further in view of Provost (US 4670960).

Further modification of the fastening member structure of Nease et al. such that the distances and angles are as claimed would have been obvious in view of the lobed fastener of Provost (figure 11) who appears to teach such relationships in the asymmetric lobed fastener found at the bottom of the grouping.

### ***Response to Arguments***

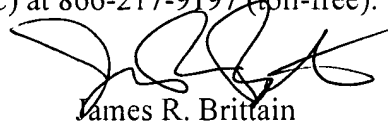
Applicant's arguments filed February 25, 2005 have been fully considered but they are not persuasive. Applicant argues that the "panel" of Nease does not comprise a tab. Applicant's claim provides no discriminant between the tab and a panel. Applicant is not claiming the garment in combination and the panel and tab are shown by a single fastener of the stock material element in figure 8 prior to being separated to form the two tabs of figure 9. The tab is integral with the panel and is met by the structure of Nease. There are upper and lower edges that are parallel and define a length and clearly there are intermediate lengths of the tab that are shorter. Applicant provides no structural argument, simply a semantic argument directed to the language Nease happened to use to describe his structure. All the benefits inherent in the structure of the device of Nease are fully applicable to the structure of applicant's device. There is no claimed improvement over that disclosed by Nease and the device of Nease is used as a fastener member. The efficiencies of the claimed shape are clearly shown by Nease and are inherent therein. Applicant is simply claiming stock material and this stock material is shown in figure 8 of Nease. Applicant argues that Provost adds nothing additional, but this argument again relies on indicating that in applicant's view the device of Nease does not suggest the structure of applicant's device and this is not persuasive.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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JRB

